

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL JOSEPH BERGER, JR.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 12-cv-11779

HONORABLE STEPHEN J. MURPHY, III

ORDER ADOPTING REPORT AND RECOMMENDATION
(docket no. 13), **GRANTING IN PART PLAINTIFF'S MOTION FOR**
SUMMARY JUDGMENT (docket no. 9), **DENYING DEFENDANT'S**
MOTION FOR SUMMARY JUDGMENT (docket no. 11)
AND REMANDING THE DECISION OF THE COMMISSIONER

This matter is before the Court on review of the Commissioner of Social Security's decision denying Plaintiff Michael Joseph Berger Jr.'s claim for a period of disability and disability insurance benefits. Both parties filed motions for summary judgment, and the matter was referred to a magistrate judge for issuance of a Report and Recommendation ("Report"). The magistrate judge issued his Report on July 23, 2013, recommending that the Court grant in part Berger's motion for summary judgment and deny the Commissioner's motion for summary judgment. Report, ECF No. 13. He suggests the decision be remanded to the Commissioner under Sentence Four so that the administrative law judge ("ALJ") can obtain the opinion of a qualified medical advisor on the issue of equivalence as to Plaintiff's physical impairments, and so that Plaintiff's credibility can be re-assessed after this opinion is obtained. *Id.* at 25. The magistrate judge also suggests

that "a remand is necessary to obtain a proper medical source opinion to support the ALJ's residual functional capacity finding." *Id.* at 29.

A copy of the Report was served upon the parties on July 23, 2013. Pursuant to Civil Rule 72(b)(2), each party had fourteen days from the date of service in which to file any specific written objections to the recommended disposition. Neither party has filed any objections, therefore de novo review of the magistrate judge's finding is not required. See Fed. R. Civ. P. 72(b)(3) (requiring de novo review by a district judge only for "any part of the magistrate judge's disposition that has been properly objected to").

Having reviewed the file and the Report, the Court finds that the magistrate judge's analysis is proper. Accordingly, the Court adopts the Report's findings and conclusions, and will enter an appropriate judgment.

WHEREFORE it is hereby **ORDERED** that the Report and Recommendation of July 23, 2013 (docket no. 13) is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff's motion for summary judgment (docket no. 9) is **GRANTED** in part and Defendant's motion for summary judgment (docket no. 11) is **DENIED** consistent with the magistrate judge's report and recommendation.

IT IS FURTHER ORDERED that pursuant to sentence four of 42 U.S.C. § 405(g), the decision of the Commissioner is **REMANDED**.

SO ORDERED.

s/Stephen J. Murphy, III

STEPHEN J. MURPHY, III
United States District Judge

Dated: August 16, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 16, 2013, by electronic and/or ordinary mail.

s/Carol Cohron

Case Manager